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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,107	08/23/2001	Harold P. Debban JR.	2-24-9-1-19-14-12	1039

7590 07/22/2003

Docket Administrator (Room 3J-219)  
Lucent Technologies Inc.  
101 Crawford's Corner Road  
Holmdel, NJ 07733-3030

EXAMINER

NGUYEN, KHIEM M

ART UNIT PAPER NUMBER

2839

DATE MAILED: 07/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/938107

Applicant(s)

DEBBAN

Examiner

K. NGUYEN

Group Art Unit

2839

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-28 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-28 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

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### DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

2. Claims 1-2, 11, 14-15 and 22, 24 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Keller (5,621,842) and Nothofer et al. (5,878,180).

Keller and Nothofer et al. each discloses an optical cable 1, substantially without a central strength member, the optical cable comprising at least one multi-fiber unit tube (12, 9) dimensioned to receive a plurality of optical fibers, the unit tube being substantially circular and having an inner diameter; a stacked plurality of optical fiber ribbons 3 positioned within the multi-fiber unit tube, the stacked plurality of optical fiber ribbons having a diagonal length; although not expressly stated, from the drawings it is seen that the corners of these stacked ribbons substantially touch the inner buffer tube surface, therefore, the ratio of the diagonal length of the stacked ribbons should equal at least .9 to 1. A filling material (6, 5) also being disposed between the stacked plurality of optical fiber ribbons and the multi-fiber unit tube.

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-7, 12-13, 16-17, 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keller and Nothofer et al. in view Gaillard (5,751,880).

Keller and Nothofer et al. as discussed above each discloses the use of filling material. Their filling material does not seem to be of the water swelling type. Gaillard discloses the use of water swelling filling 4. Therefore, it would have been obvious for one of ordinary skill in the art to utilize water swelling filling material for the optical cable of Keller or Nothofer et al. for absorbing moisture purposes. Regarding the selection material properties for the unit tubes and different modulus values, it is submitted that this seems to relate to routine experimentation and use of preferred materials (In re Aller, 105 USPQ 233). It would also have been obvious for one of ordinary skill to select buffer tubes with the claimed materials and modulus values for Keller and Nothofer et al. cables for achieving a more reliable optical cable.

5. Claims 10 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keller or Nothofer et al. in view of Rahman (5,229,851).

Keller and Nothofer et al. discussed above lack to disclose a plurality of multi-fiber unit tubes stranded together in a SZ configuration. Rahman discloses a plurality of unit tubes 8

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stranded together in a SZ configuration. Therefore, it would have been obvious for one of ordinary skill in the art to construct or provide a plurality of multi-fiber unit tubes of Keller or Nothofer et al. stranded together in a SZ configuration. This feature would be useful in construction of a more tight and compact optical cable.

6. Claims 8-9, 19-21, 27-28 rejected under 35 U.S.C. 103(a) as being unpatentable over Keller or Nothofer et al. in view of Logan et al. (6,192,178).

Keller and Nothofer et al. discussed above each seem lacking a protective jacket provided with a strength member formed around their unit tubes.

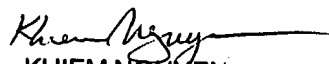
Logan et al. in figure 2 show a protective jacket 35 provided with at least a strength member 32 formed around the unit tube 20.

Therefore, it would have been obvious for one of ordinary skill in the art to provide a protective jacket with at least a strength member formed around the unit tubes for either Keller or Nothofer et al. optical cables in view of Logan's teachings. The use of protective jacket with strength member is also old and well known in providing a stronger cable resistant to stress.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Khiem Nguyen whose telephone number is (703) 308-1738.

The Examiner Supervisor can also be reached at (703) 308-2710.

  
KHIEM NGUYEN  
PRIMARY EXAMINER

K.N.

July 14, 2003